

## **Assembly Bill No. 2821**

### **CHAPTER 661**

An act to amend Section 1400 of, and to add Section 14019.7 to, the Welfare and Institutions Code, relating to health care services.

[Approved by Governor September 21, 2004. Filed  
with Secretary of State September 21, 2004.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 2821, Daucher. Care facilities: referrals: Medi-Cal payment for noncovered services.

(1) Existing law prohibits any person, association, or corporation from establishing, conducting, or maintaining a referral agency or to refer any person for remuneration to any extended care, skilled nursing home, or intermediate care facility or a distinct part of a facility providing extended care, skilled nursing home care, or intermediate care, without first having obtained a written license from the Director of Health Services or from an inspection service approved by the director.

This bill would prohibit any person, association, or corporation from establishing, conducting, or maintaining a referral agency or to refer any person for remuneration to any person or agency outside a long-term health care facility for professional services for which the facility does not employ a qualified professional person to furnish a specific service, unless the facility complies with current federal and state law regarding the provision of these services and other requirements are met.

(2) Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons. Existing law prohibits a provider of health services from seeking reimbursement or payment from a Medi-Cal beneficiary for covered services.

This bill would provide that, if permitted by federal law, a relative of a skilled nursing facility resident who is a Medi-Cal beneficiary may pay an additional amount to the facility to enable the resident to obtain requested noncovered services, as described in the bill. The bill would prohibit the charge for these services from exceeding the charges to private pay residents for the same services.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1400 of the Health and Safety Code is amended to read:

1400. (a) It is unlawful for any person, association, or corporation to establish, conduct or maintain a referral agency or to refer any person for remuneration to any extended care, skilled nursing home or intermediate care facility or a distinct part of a facility providing extended care, skilled nursing home care, or intermediate care, without first having obtained a written license therefor as provided in this chapter from the director or from an inspection service approved by the director pursuant to Section 1257.

(b) It is unlawful for any person, association, or corporation to establish, conduct, or maintain a referral agency or to refer any person for remuneration to any person or agency outside a long-term health care facility, as defined in Section 1418, for professional services for which the long-term health care facility does not employ a qualified professional person to furnish a specific service, including, but not limited to, laboratory, diagnostic, or therapy services, unless the long-term health care facility complies with current federal and state laws regarding the provision of these services and all of the following conditions are met:

(1) The services will be provided in accordance with professional standards applicable to the provision of these services in a long-term health care facility.

(2) The long-term health care facility assumes responsibility for timeliness of the services.

(3) Services are provided or obtained only when ordered by the attending physician and a notation is made in the resident's medical chart reflecting that the service has been provided to the resident.

SEC. 2. Section 14019.7 is added to the Welfare and Institutions Code, to read:

14019.7. (a) Notwithstanding Section 14019.4 and if permitted by federal law, a relative of a skilled nursing facility resident who is a beneficiary under this chapter may pay an additional amount to the facility to enable the resident to obtain requested noncovered services, such as a private room, telephone, or television, or for bed hold days that exceed a period paid for under the state plan.

(b) The additional charge for requested noncovered services shall not exceed the amount charged to private pay residents. The additional charge for bed hold days shall not exceed the rate paid for by the Medi-Cal program for a covered bed hold day. The additional charge for



a private room shall not exceed the difference between the private pay rate for a semiprivate room and a private room.

(c) Prior to accepting supplemental payment for holding a bed for a resident in a facility, a facility shall disclose to the relative the resident's right under federal law to be readmitted without charge upon the first availability of a bed in a semiprivate room in that facility, other state and federal laws regarding bed hold rights, the average number of bed vacancies at that facility for the past month, and the current number of bed vacancies. Written information regarding bed vacancies shall be provided to the relative at the first available opportunity.

(d) The ability of a resident's relative to pay an additional amount for noncovered services shall not be a condition of admission.

